

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DWIGHT BARTUNEK,)	
)	
Petitioner,)	4:06cv3163
)	
vs.)	MEMORANDUM AND ORDER
)	
ROBERT HOUSTON,)	
)	
Respondent.)	

This matter is before the court on filing no. 17, a letter filed by the petitioner, Dwight Bartunek, the petitioner in this habeas corpus case. The letter has been docketed as a Motion for Appointment of Counsel because the petitioner reports that the legal aide assigned to assist him in this habeas corpus matter has informed him that "the definition of 'assisting'" other inmates in order to ensure that they have reasonable access to the courts "has changed with new administration." As a result, the legal aide is "no longer allowed" to:

- (a) research
- (b) type
- (c) [do] anything else.

For many reasons, I hope that the petitioner or the legal aide has misunderstood the applicable policy. At a minimum, this court cannot appoint counsel in every single habeas corpus proceeding. In addition, the court assumes that the Nebraska Department of Correctional Services ("DCS") maintains its legal aide programs in recognition of its obligation to protect each inmate's constitutional right of access to the courts.

THEREFORE, IT IS ORDERED:

1. Within twenty (20) days of the date of this Order, the respondent shall file a

copy of the applicable DCS and/or institutional policy; and

2. Within twenty (20) days of the date of this Order, the respondent shall specifically answer the following questions in a written response to this Order:

- (a) May the petitioner's legal aide assist the petitioner in research?
- (b) May the petitioner's legal aide assist the petitioner by typing?
- (c) If the particular legal aide assigned to the petitioner feels unqualified or unwilling to assist in any authorized manner, may the petitioner, on request, obtain the assistance of a different legal aide from those at the prison who administer the program, or must the court become involved?

DATED this 19th day of March, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief District Judge